IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11248 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BOSTON SECURITIES LTD

Versus

SARDAR SAROVAR NARMDA NIGAM LTD

Appearance:

None present for Petitioner

MR ANANT S DAVE for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/07/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the respondents and perused the special civil application.

#. In this writ petition, the petitioner is praying for a writ of Mandamus or any other appropriate Writ, order

or direction commanding the respondents to withdraw the impugned decision as reflected from the said letter dated 17.12.1998 at annexure `N' to the petition and be pleased to direct the respondents to continue petitioner as an authorized broker of respondent No.1 without any break.

#. Annexure-B is the letter dated 17th December 1998 of respondent which reads as under:
No.SSNNL/GMRC/1998/7314/98 17th December, 1998

To,

M/s.Boston Securities Ltd.,
315, Jolly Bhavan No.1
10, New Marine Lines
Mumbai-400020

Dear Sir,

Sub.: Brokership Arrangement - Broker Code No.SC/046

We refer to the appointment of your firm as brokers to the Nigam's Shri Nidhi Fixed Deposit Scheme vide Broker Code No.SC/046

In this connection we have to advise that the Nigam has decided to terminate the brokership arrangement with your firm with immediate effect.

Kindly acknowledge receipt.

Thanking you,

Yours faithfully,

sd/-
General Manager (Resources & Credit)

Copy to:

M/s.Boston Securities Limited
Branch Office, Vishram
Near Purohit Dinning Hall
Vallabh Vidyanagar-388120 (Guj.)

#. From this letter, I find that the petitioner was appointed as Broker to the Nigam's Shrinidhi Scheme vide Broker Code No.SC/046. Under this letter, this brokership arrangement was terminated. It is a civil dispute between the petitioner and respondent-Corporation for which, the only remedy is of filing of the suit. In

such matters, manifold questions of facts are to be gone into and decided. For this oral evidence may be necessary and in the proceedings under Article 226 of the Constitution, no such evidence is recorded by this court. In this matter otherwise also manifold disputed questions of fact are being raised and as a result of which, this writ petition is not appropriate remedy.

#. The learned counsel for the respondents has relied on the decision of the apex court in the case of K.N.Guruswamy v. State of Mysore & Ors. reported in AIR 1954 SC 592 in support of his contention that the only appropriate remedy for the petitioner in such matter is to file civil suit. It is also reported by learned counsel for respondents that the petitioner has already filed criminal complaints against the Corporation's officer. Having gone through the judgment of the Hon'ble Supreme Court as well as keeping in view that it is purely a civil dispute, coupled with the fact that manifold disputed questions of fact are being raised, the only appropriate remedy for the petitioner is to file a civil suit.

#. In the result, this special civil application fails only on this ground and the same is dismissed. Rule discharged.

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(sunil)